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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,771	07/21/2003	Praveen K. Malhotra	36737-189786	4229

7590 02/03/2006

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EXAMINER
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CHAPMAN, JEANETTE E

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 02/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/622,771	<b>Applicant(s)</b> MALHOTRA ET AL.	
	<b>Examiner</b> Chapman E Jeanette	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 11, 13, 20-22, 26, 28 and 35-38 is/are rejected.
- 7) ☒ Claim(s) 3-10, 12, 14-19, 23-25, 27 and 29-34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/16/2005</u> . | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 11,13,20-22, 26,28 and 35-38 rejected under 35 U.S.C. 103(a) as being unpatentable over Leek (6006487) in view of Fanucci et al (65301820) and Petroff (2754679)

Leek shows applying a load to a brace or building structural member shown in figure 1. The load is applied in cycles simulating the forces due to an earthquake. See column 1 and 7-8. Leek discloses more than 9 and preferably as many cycles as needed to determine failure. This may be less than, equal to or greater than 15 cycles. Leek discloses applying the load in cycles to a first sample of the structure, applying a load monotonically to a second sample that is substantially identical to the first. This implies uniform-amplitude cycles. The speed can be based on any measurement based on speed, velocity or acceleration. See column 7, lines 1-33. See Petroff also. For Leek, a maximum deformation is applied to the structure and the force required to achieve the maximum permissible deformation is measured.

Fannuci discloses a structural brace in which it would be practical to apply the testing method of Leek. The brace component 20 or 70 of Fanucci has an orientation with respect to the vertical when the component is in use in the brace. The test method

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of Fannucci comprises applying a load to the component in the orientation and at an angle with respect to the brace. See column 8, lines 35-65.

Petroff discloses a vibration analyzing equipment. His device is portable, rugged, and may be applied to vibrations at widely different frequencies. This may includes vibrations/cycles for a plurality of buildings during an earthquake of the same earthquake . One of his testing devices involves measuring the cycles based on the record of acceleration with respect to time in at least one structure. Forces may be applied by vibration loading from a machine; however, Petroff discloses that his apparatus includes a wide range of uses and is portable. . Petroff implies the load is applied in uniform amplitude cycles as it is measure or input is converted by a uniform amplitude circuit. Thus, the forces of Leek are applied to the brace of Fannuci in uniform-amplitude cycles simulating the forces of an earthquake and the Uniform amplitude cycles are applied on the record acceleration with respect to time as taught by Petroff for at least one building during an earthquake.

It would have been obvious to one of ordinary skill in the art to apply the method of Leek and Petroff to the seismic brace of Fannuci as suggested by Fannuci in order that a test be performed which most accurately simulates an earthquake's properties.

***Allowable Subject Matter***

Claims 3-10, 12, 14-19, 23-25, 27, 29-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E Jeanette whose telephone number is 571-272-6841. The examiner can normally be reached on Mon.-thursday, 8:30-6:00, every other fri. off.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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